UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

October 7, 1991

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. James J. Hamula
Kimball and Curry, P.C.
2600 North Central Avenue
Suite 1600
Phoenix, Arizona 85004

Dear Mr. Hamula:

This responds to your August 28, 1991 letter on behalf of a major Arizona Utility to Dave O'Brien of this office in which you request EPA's opinion on the applicability of the "emergency spill or overfill containment" exemption in 40 CFR Section 280.10(b)(6) to sumps used to contain diesel fuel discharges from electric power generation turbines. These sumps are designed to receive the diesel fuel discharges from the turbine in the event or a false start.

Your letter describes the sumps in question as constructed of non-earthen materials (e.g., concrete or steel), with a volume of no more than 350 gallons, and connected to the turbines by way of an enclosed conduit (e.g., pipes). You admit false starts do occur from time to time and that on those occasions small amounts of fuel are discharged directly from the turbine into the sump (about 20 gallons) Immediately after the false start occurs, you report that utility personnel remove the diesel fuel from the sump.

Excluded from the 40 CFR Part 280 regulations under section 280.10 (b)(6) are "any emergency spill or overflow containment UST system that is expeditiously emptied after use." As stated on p3709 of the September 23, 1988 preamble, "by including this exclusion in the final rule, the Agency believes that any potential confusion regarding the need for secondary barriers (containment) for secondary barriers (containment) systems has now been eliminated." The sump collection/storage system described in your letter in no way resembles a secondary containment barrier. It is described (by you) as simply a storage tank into which your client periodically discharges (for temporary storage) unburned fuel from their turbines when they false start. Also the event you describe is not an emergency spill, leak or other unplanned occurrence. The very fact that the sump is connected by conduit to the turbine indicates that your client expects false starts to occur from time to time. Accordingly, EPA believes these sumps are not the same as emergency spill tanks which allow an appropriate immediate response to emergency situations which threaten immediate releases into the environment.

The above conclusion is further supported in the September 23, 1988 preamble discussion

where on page 37109 it says "sumps designed to store petroleum or hazardous substances during periodic cleaning or maintenance of machinery or equipment are not included in this exclusion. An example of this type of sump is turbine oil sumps that are used during maintenance of electric power generation turbines. The act of occasionally draining out a false-starting turbine so that it can ignite is also considered by EPA to be a planned maintenance activity. It is not the type of unplanned-for-leak-threatening emergency situation that requires immediate and temporary storage in an emergency spill or overfill tank.

In sum, it is our conclusion that the false start sumps described in your letter are subject to the 40 CFR Part 280 requirements. Therefore, the views of the person named in your letter, Martha Zeichner, do not represent the position of EPA's Office of Underground Storage Tanks on the question of false-start sumps.

I hope the above sufficiently clarifies OUST's position on this matter for your needs.

Sincerely,

/s/

David W. Ziegele, Director
Office of Underground Storage Tanks

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